

JUDGE SWAIN

15 CV 00754

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DOV MALNIK AND TOMER FEINGOLD,

Docket no. \_\_\_\_\_ / 15

Plaintiff,

**NOTICE OF REMOVAL**

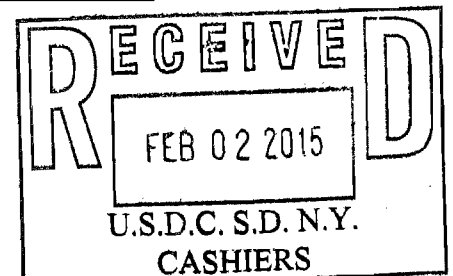
-against-

MUDDY WATERS, LLC, CARSON BLOCK, and  
JOSHUA STEINBERG

Jury trial demanded

Defendant.

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PLEASE TAKE NOTICE that, PURUSANT TO 28 U.S.C. §§ 1441 *et seq.*,

Muddy Waters, LLC ("Muddy Waters"), and Carson Block ("Block"), named herein as defendants, through their attorneys Raines Feldman LLP, hereby remove the New York State Supreme Court action described below to the United States District Court for the Southern District of New York on the following grounds:

1. The plaintiffs named in the caption above have commenced an action in the Supreme Court of the State of New York, County of New York, entitled *Dov Malnik and Tomer Feingold v. Muddy Waters, LLC, Carson Block, and Joshua Steinberg*, index number 652948/2014 ("State Court Action"). A copy of the summons with notice ("Summons") is annexed hereto as Exhibit 1. Plaintiffs have not filed or served a complaint in the State Court Action. A copy of all other documents served upon Muddy Waters and Block in the State Court Action are annexed hereto as Exhibits 2 through 7. Exhibits 1 through 7 comprise the state court's entire file in this action.

upon Block no earlier than January 17, 2015. Joshua Steinberg has not been served with the Summons, but upon information and belief, Steinberg consents to removal of this action to Federal Court.

3. No responsive pleadings have been served in the State Court Action, and the time within which to do so has not expired. This notice is being filed within 30 days after the service of the pleadings upon the defendants. Thus, this Notice of Removal is timely filed in this Court.<sup>1</sup>

4. The State Court Action is a Civil Action of which this Court has original jurisdiction under 28 U.S.C. § 1332(a) (diversity) and which may be removed to this Court pursuant to the provisions of 28 U.S.C. §§ 1441 *et seq.*

5. Block is an individual. When the Summons was filed, Block was, and still is, a citizen and resident of the State of California. When the Summons was filed, Block was, and still is, domiciled solely in California. When the Summons was filed, Block was not, and still is not, a citizen of any State other than California or a citizen of any country other than the United States.

6. Defendant Joshua Steinberg is an individual and a citizen of the United States. When the Summons was filed, Steinberg was not, and still is not, a citizen of the State of New York or a citizen of any country other than the United States. On information and belief, when the Summons was filed, Steinberg was, and still is, a

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<sup>1</sup> Also, the Summons does not allege the citizenship, domicile, or residency of any of the parties. Therefore, no deadline to file a notice of removal has even been established.

citizen and resident of the State of California. On information and belief, when the Summons was filed, Steinberg was, and still is, domiciled solely in California.

7. When the Summons was filed, Muddy Waters was, and still is, a Nevada limited liability company. Muddy Waters' sole member now is Block. Muddy Waters' sole member at the time of the filing of the Summons was Block. Muddy Waters' principal place of business now and at the time of the filing of the Summons is/was located in the State of California. When the Summons was filed, Muddy Waters was, and still is, a citizen of the States of California and Nevada only, and not a citizen of any foreign country.

8. When the Summons was filed, Plaintiff Dov Malnik was, and still is, a citizen of the Country of Israel. When the Summons was filed, Malnik was, and still is, a resident of and domiciliary of, the Country of Switzerland. Malnik has never been a citizen of the United States. When the Summons was filed, Malnik was not, and still is not, a citizen of, resident of, or domiciled in, any State in the United States.

9. When the Summons was filed, Plaintiff Tomer Feingold was, and still is, a citizen of the Country of Israel. When the Summons was filed, Feingold was, and still is, a resident of and domiciliary of, the Country of Israel. Feingold has never been a citizen of the United States. When the Summons was filed, Feingold was not, and still is not, a citizen of, resident of, or domiciliary of, any State in the United States.

10. Plaintiffs Dov Malnik and Tomer Feingold are the only plaintiffs in the State Court Action. Muddy Waters, Block, and Joshua Steinberg, are the only defendants in the State Court Action. Thus, complete diversity exists among the

parties. And no parties at any time at or since the filing of the Summons have been citizens of, residents of, or domiciled in, the State of New York.

11. The amount in controversy exceeds the sum of \$75,000. The amount plaintiffs are claiming in damages exceeds the sum of \$75,000. On January 26, 2015, Plaintiffs filed with the state court a Request for Judicial Intervention (included in Exhibit 2 herein). On the third page of that document, Plaintiffs state and represent that their claim for compensatory damages, exclusive of punitive damages, interest, costs, and counsel fees, is in excess of \$500,000.

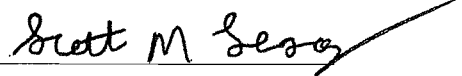
13. Removal is proper under 28 U.C.C. § 1441.

14. Pursuant to 28 U.S.C. § 1446, a copy of this Notice of Removal will be served promptly upon the plaintiffs and any other parties who have appeared, and will be filed promptly with the clerk of the New York State Supreme Court in and for the County of New York.

Dated: January 29, 2015, Beverly Hills, California.

Respectfully submitted,

RAINES FELDMAN LLP  
*Attorneys for Defendants Muddy Waters,  
LLC and Carson Block*

By: 

Scott M. Lesowitz

(Admitted to practice law in the States  
of New York: Registration Number  
4626701; admitted to practice law in the  
Southern District of New York)

9720 Wilshire Blvd., Fifth Floor  
Beverly Hills, CA 90212  
slesowitz@raineslaw.com  
310-440-4100

TO: Reiss Sheppe LLP  
Daniel J. Brown  
*Attorneys for the Plaintiffs*  
425 Madison Avenue, 19th Floor  
New York, NY 10017  
[dbrown@reissheppe.com](mailto:dbrown@reissheppe.com)  
212-753-2424

Skiermont Puckett LLP  
Paul J. Skiermont  
*Attorneys for Plaintiff Tomer Feingold*  
2200 Ross Ave, Suite 4800W  
Dallas, TX 75201  
[paul.skiermont@skiermontpuckett.com](mailto:paul.skiermont@skiermontpuckett.com)  
214-978-6600